



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

JUN 12 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SE-5J/OPRS-SPCC
09-3-043

Mr. Scott Bergman
Facility & Project Manager
Lube-Tech
858 Transfer Road
St. Paul, MN 55114

Dear Mr. Bergman:

An inspection of your facility on 4/29/09, indicated that your Spill Prevention, Control and Countermeasure ("SPCC") Plan does not address the requirements of Title 40, Part 112 of the Code of Federal Regulations ("40 C.F.R. Part 112"). The deficiencies of your facility's Plan are listed in Attachment A to this letter.

Pursuant to Section 311(b) of the Clean Water Act, as amended by the Oil Pollution Act of 1990, 33 U.S.C. § 1321(b), violations of the SPCC regulations, contained at 40 C.F.R. Part 112, subject owners and operators of a facility to administrative civil penalties of up to \$16,000 per day (up to a maximum of \$177,500) or judicial civil penalties of up to \$37,500 per day. The actual penalty assessed will depend upon several factors including ability to pay.

Lube-Tech must take prompt action to correct the violations and come into compliance with the SPCC regulation. U.S. EPA requests, pursuant to Sections 311(m) and 308(a) of the Clean Water Act, 33 U.S.C. §§ 1321(m) and 1318(a), that you provide responses to Attachment A (which specifies information which the facility must submit for each violation) **within thirty (30) calendar days** from the date of receipt of this letter.

These materials should be sent to:

U.S. Environmental Protection Agency
Emergency Response Branch (SE-5J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Attn: Dr. Shitien Yang, SPCC Inspector Grantee

All materials submitted must be accompanied by a certification that all materials and all statements submitted by your facility are true and accurate to the best of the signatory's knowledge and belief. This certification must be notarized and signed by an authorized official of your facility. The SPCC plan and all subsequent amendments must be reviewed and certified by a registered Professional Engineer who is familiar with the facility and with 40 C.F.R. Part 112. The engineer's name, registration number, State of registration, date of certification and seal must be included as part of the Plan.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Part 35. The U.S. EPA has the authority to use the information requested herein in an administrative, civil or criminal action.

Please note that revisions to the SPCC regulation were published in the Federal Register on July 17, 2002. U.S. EPA extended the date for compliance with the revised parts of the regulation to July 1, 2009. However, the violations listed herein for your facility were not requirements that had been revised. Since your facility was not in compliance at the time of your inspection and you are currently in violation of the regulation, you do not qualify for the extension of the deadline. You must submit a response to Attachment A to the U.S. EPA within thirty (30) calendar days of receipt of this notification.

If U.S. EPA does not receive an adequate response from your facility, it will be required to review its enforcement options. If you have any questions, please feel free to contact Dr. Shitien Yang, SPCC Inspector Grantee, at (312) 886-0850.

Sincerely,


Jason H. El-Zein, Chief
Emergency Response Branch #1

Attachments: Attachment A

cc: Minnesota Pollution Control Agency

ATTACHMENT A

VIOLATIONS OF THE SPCC REGULATION IDENTIFIED DURING INSPECTION/ PLAN REVIEW

- **Inadequate SPCC Plan (40 C.F.R. 112.7 & 112.8):** Submit a revised SPCC Plan which appropriately and adequately addresses the identified deficiencies. If unable to provide an adequate SPCC Plan within 30 days, then submit a **detailed schedule** which indicates when the SPCC Plan will be revised and when implementation of the revised plan will be completed. Within the time frame set forth in that schedule, your facility must submit the revised SPCC Plan and implementation information.

THE SPECIFIC DEFICIENCIES WHICH MUST BE ADDRESSED ARE AS FOLLOWS:

40 C.F.R. Part 112.7 - General requirements for Spill Prevention, Control and Countermeasure Plans

- (a) (3) Failure to describe in your plan, the physical layout of the facility including a facility diagram with contents and locations of each container, locations of transfer stations and connecting piping, and all completely buried tanks that are otherwise exempted from this Part.

Drums and totes are mobile and portable bulk storage containers. Please provide description in your Plan. In addition, railcar transfer area needs to be discussed in more details.

- (c) Failure to provide appropriate secondary containment and/or diversionary structures or equipment to prevent a discharge.

The general containment requirement may not be met at your railcar transfer area due to distance and response time constraints. Please provide more detailed information in your Plan to address this potential deficiency.

40 C.F.R. Part 112.8 Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities(excluding production facilities).

- (c) Bulk Storage Containers

(c) (11) Failure to position or locate portable or mobile oil storage containers to prevent a discharge.

Numerous portable and mobile containers such as drums and totes are stored at your facility. Please provide more detailed description in your Plan as to there locations and containment methods.